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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

)
)
) Streamlining the Commissions'
) Antenna Structure Clearance
) Procedure and Revision of
) Part 17 of the Commission's Rules
) Concerning Construction, Marking,
) and Lighting of Antenna Structures
)

WP Docket No. 95-5

TO: The Commission

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COMMENTS OF AMERICAN PERSONAL COMMUNICATIONS

American Personal Communications ("APC")^{1/} agrees with the dual goals of the Commission in this docket -- to ensure that antenna structures do not present a hazard to air safety and to streamline Part 17 of the Commission's rules. The specific proposals contained in the Commission's Notice of Proposed Rulemaking (the "NPRM") could, however, delay the advent of highly demanded wireless services without any corresponding safety benefits if interpreted too broadly. These proposals also could impose great costs on the communications industry and substantial record-keeping burdens on the Commission's staff.

In particular, we are concerned with the NPRM's proposal to require the registration of all antenna structures that are the subject of Federal Aviation Administration ("FAA") review prior to construction. If this proposal were

^{1/} American PCS, L.P., d/b/a American Personal Communications.

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implemented in a manner that would require FCC licensees to await the issuance of a registration number or other FCC consent prior to construction and operation of the site, it could delay the introduction of personal communications services ("PCS") in the United States and limit the ability of PCS licensees to respond quickly to service requirements in a highly competitive market. We urge the Commission to make clear that any registration procedure would permit FCC licensees to construct structures that have been approved by the FAA without awaiting a second approval from the Commission.

Under existing law, an FCC licensee proposing a structure that is more than 200 feet in height or that is near an airport runway must take several important and effective steps to protect public safety. It must obtain building permits and zoning clearance and -- most importantly -- the FAA must grant its consent to the structure before it can be constructed. The result of receiving an FAA clearance is a determination by the Federal government that the structure does not present a hazard to air safety. At this point, the public safety responsibilities of the Federal government have been accomplished, and the FCC licensee should be permitted to construct the FAA-approved facility. We do not object to the imposition of a registration requirement that does not prevent or delay the construction of an FAA-approved structure. But any procedure that stops construction while awaiting yet

another governmental consent (or, worse yet, the grant of consent by one federal agency and the denial of consent by a sister agency) would delay service to the public and deny FCC licensees the flexibility they need to respond to consumer demand quickly and efficiently.

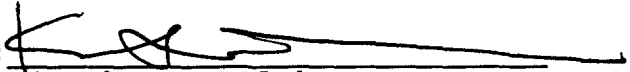
We also urge the Commission not to require the assembly of "a comprehensive compilation of all antenna structures" (NPRM, ¶ 16(f)). The costs to the industry of registering each antenna structure -- not just those that require FAA clearance -- would be staggering.^{2/} This requirement would vitiate the substantial benefits of blanket base-station licensing, a structure the Commission wisely adopted for PCS and is moving toward for cellular. The massive FCC record-keeping obligations that such a rule would impose would be equally daunting. And the public benefit of having information available to help resolve a few "complaints related to the effects of radio frequency energy levels at particular antenna structure sites" would be minuscule in comparison to the overwhelming burden such a requirement would place on the industry and the Commission's staff. Surely, specific complaints can be resolved in a more targeted fashion

^{2/} The Commission also should consider the competitive implications of requiring an FCC licensee to disclose its entire base-station complement to all its competitors. Although the rule presumably would apply across the board, the revelation of such sensitive competition information would have a greater adverse impact upon new entrants than on long-standing incumbent licensees.

than by a requirement that every antenna structure in the nation be registered.

Respectfully submitted,

AMERICAN PERSONAL COMMUNICATIONS

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